

The Marines Have Landed in Springfield, Illinois

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The Marines Have Landed in Springfield, Illinois
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to
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ZNN reports another wave of citizens being brought into the Springfield hospital with severe breathing problems, onset of shock, or signs of massive internal bleeding demonstrated by violent coughing of blood. Since Mayor Quimby's receipt of a potentially contaminated letter that resulted in the closure of City Hall, and the letters that followed to local businesses and schools, the city has been placed under watch and individuals that are already inside the city limits have been encouraged not to leave.

This just in: ZNN reports that a suspected terrorist, referred to only as Homer, has just crashed a truck of an unknown size, presumed to be full of explosive, into two tanker trucks parked adjacent to the Springfield Nuclear Plant. A dense green cloud is seeping out of the first tanker, bringing down the first waves of responders, as the second tanker slowly burns, threatening to rupture the plant's core walls. The mayor, after "googling" for chemical response units, has called the U. S. Marine Corps' Chemical Biological Incident Response Force (CBIRF) for help. Riots have already broken out in Springfield sparked by the fear of pending nuclear fallout.

Two days later, after all the necessary requests have been completed and several response headquarters stood up, CBIRF receives an order to deploy. They arrive in Springfield to find the streets filled corpses showing signs of chemical poisoning.

Introduction

Military support to civil authorities system is not able to respond to the Springfields of this country. Currently, the United States Marine Corps has several units with specific missions of homeland defense and homeland security. Many laws and regulations have been established to make their execution feasible inside the United States, but the command and control systems in place are not appropriate and adequate for the accomplishment of their missions.

Background

Homeland security and homeland defense are not new terms or concepts, and have been around since the birth of the nation. Since the creation of the armed forces, one of their primary objectives has always been to secure the United States from an attack. This has not, and will not change, even though the enemies and their methods have and will continue to change.

Since the end of the last world war, as one of the missions within the U. S., the military performed outside its traditional roles and provided "special assistance" in consequence management and mitigation in response to weapons of mass destruction (WMD) chemical biological radiological nuclear or high-yield-explosives (CBRNE) attacks. The 1995 Tokyo Sarin gas subway attack showed how even well-organized and equipped first

responders can be quickly overwhelmed by a CBRNE attack, even one that was not successfully deployed. The President saw a need for U. S. response capability and turned to his military for an answer. The Marine Corps' Commandant responded with the best solution and created the Chemical Biological Incident Response Force (CBIRF) in 1996.

At its creation, the mission of CBIRF was to respond to, or a credible threat of, chemical or biological incident in order to assist the local first responders. However, that mission changed over time, and a few weeks prior to the 9/11 attacks, CBIRF was scheduled for disbandment (the fiscal year 2002 budget for CBIRF was zero)¹ as there seemed to be no missions for this specialized unit. Then came the attacks of September 11, 2001, and the security situation in United States changed. "Anti-Terrorism" was the buzzword of the day, priorities got re-shifted, and CBIRF was not only saved, but also approved for an increment in manpower of over twenty five percent.

The mission of CBIRF, in order to cover all the potential terrorist attacks, was changed to: "when directed, forward-deploy and /or respond to a credible threat of a Chemical, Biological, Radiological, Nuclear, or High Yield explosive (CBRNE) incident in order to assist local, state, or federal agencies and Unified Combat Commanders in the conduct of consequence management operations by providing capabilities for

agent detection and identification; casualty search, rescue, and personnel decontamination; and emergency medical care and stabilization of contaminated personnel"².

Subsequently, the U. S. military created numerous other units to help in the fight against terrorism. Few of these were like CBIRF, action oriented, but the majority were just additional new layers of headquarters. The Marine Corps reestablished the 4th Marine Expeditionary Brigade, as a parent command to CBIRF, and upon the creations of the U. S. Northern Command (NORTHCOM), created the MARFORNORTH component, to be staffed by the existing MARFORRES personnel.³ In addition to NORTHCOM additional standing Task Forces were created (Joint Task Force Civil Support and National Capital Region) again with no troops, just headquarters.

Legal Framework

Starting with the U. S. Constitution and laws like the *Posse Comitatus Act*, *Economy Act*, and *Stafford Act*, the regulations regarding the use of military were defined. Many interpreted these regulations differently; thus, the one thing that was missing was a common, unified, summary interpretation.

When addressing the issue of military response within U. S. borders the first legal issue that is brought up is the *Posse*

Comitatus Act. Part of the U. S. Federal Law (18 U.S.C. § 1385)

and passed in 1878, it states the following:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.⁴

If taken directly without any of the amplifying laws, *Posse Comitatus Act* states that the military cannot be used as a police force. However, subsequent laws have added the following exceptions:

- National Guard units while under the authority of the governor of a state;
- Troops when used pursuant to the Federal authority to quell domestic violence with the waiver of President of the United States in an emergency;
- In counter drug smuggling operations (codified 10 USC 371-78);
- In emergencies involving use of weapons of mass destruction (codified 18 USC 831);⁵

Given all these exceptions, any actions taken by a unit like CBIRF, whose sole mission is to respond to incidents involving weapons of mass destruction, fall within the legal realm of the U. S. Code.

Just like the U. S. Code, all the national strategies and directives, ranging from the top, the President's National Security Strategy, through all the various levels of the Department of Defense and the Joint Chiefs of Staff, state that the military will respond within the United States to assist the local authorities in the event of terrorist attacks. The National Defense Strategy, National Response Plan, National Military Strategy, and the latest Strategy for Homeland Defense and Civil Support all echo the Presidents guidance for military response⁶. The guidance is clear, the law permits it, the military can and is directed to respond within United States. To go even further, a Presidential Directive was published directing all U. S. agencies that would respond to an event (to include the U. S. military) to use the National Incident Management System (NIMS)⁷ to help with the command and control of such event.

The National Incident Management System, developed by the Department of Homeland Security was designed to enable responders at all jurisdictional levels and across all disciplines to work together more effectively and efficiently. The key element from the lessons learned by first responders nationwide that has been incorporated into the NIMS is the Incident Command System (ICS), a standard, on-scene, all-hazards incident management system already in use by firefighters,

hazardous materials teams, rescuers and emergency medical teams. The ICS has been established by the NIMS as the standardized incident organizational structure for the management of all incidents.

Thus the legal framework for military response is set: the law exists, clear guidance has been issued and even the system for execution of that guidance has been codified, but still problems arise with its execution.

Command and Control

The command and control systems that were present at the time of the attacks of 9/11 did, and still do, need attention. The military command and control system, which date back to the mid-nineteenth century,⁸ was still having difficulty adapting to the joint integration of 1986⁹ and only beginning to include more civilian interaction. Any intercommunication capabilities were almost non-existent, and when present, only because of the initiative of the local jurisdictions. Joint training rarely happened, and then only at the highest, headquarters staff only, levels. Civilian responders did not talk to the military; local and state officials rarely talked to their federal peers.

In some cases, the inappropriateness of the C2 systems is written into military regulations. For example, within the NIMS the lead federal agency exercises command and control of all the

responding units. In the case of the first major bioterrorism attack in United States, the Anthrax attacks on the U. S. Capitol Hill, the U. S. Capitol Hill Police Department was the LFA, and all the military units that responded to assist, including CBIRF, reported to them.¹⁰ However, according to the most recent Marine Corps administrative message (MARADMIN) on the topic of civil support, the civilian agency will "at no time...exercise any command and control over DOD forces."¹¹ However, in the same document the statement is made that the military will use NIMS, the system which centers on single commander.

This problem continues with the cases of the newly created headquarters. In the case of the Joint Task Force Civil Support (JTF-CS), military unit whose sole purpose is to assist civilian agencies in case of emergencies, the unit comprises only a headquarters group. JTF-CS does not get to exercise with other civilian agencies often because of a popular belief among many first responders that if military arrives on the scene, the military will assume all command and control and not contribute to dealing with the problem at hand¹².

Another example of an inadequate approach was the process of naming MARFORRES as the MARFORNORTH component to NORTHCOM. As MARFORNORTH, this headquarters group became the senior Marine

Corps unit responsible for domestic response, but received no additional resources or training to do that job.¹³

Communication systems that are supposed to help command and control an event have been shown to have the opposite, inappropriate, effect. During the 9/11 attacks, and afterwards this issue was discussed at all levels, especially in the 9/11 commission report and various after action reports. The lack of interoperability has been identified, however, little has been done to fix it. The Marine Corps, independently, has taken the first step in bridging that gap by developing a Rapid Response System that is to mirror the civilian responders radios. However, due to the restrictions and regulations governing the distribution of radio frequency bands, in the current configurations that the RRS was made, even this new system will not talk to the civilian counterparts without additional equipment.¹⁴

Conclusion

The Marine Corps has several units that are specialized and poised for domestic response. Although the laws exist for them to operate within the United States, the implementation of the current command and control systems are making that response harder and slower. In the case of disaster, whether natural or

manmade, the lack of interoperability of the command and control systems can lead only to failure.

Word Count: 1663 (1500-2000)

¹ CBIRF Chronology

² <http://www.cbirf.usmc.mil/>

³ <http://www.4meb.usmc.mil/>

Lance Corporal Adam J. Tustin "Lt. Gen. McCarthy Assumes Command of MarForNorth." MARFORRES News Archive 2005.01

Interview with Lieutenant General Dennis M. McCarthy by Captain Sobczak 23 Jan 2006.

⁴ United States Code

⁵ United States Code

⁶ George W Bush, President of the United States. "The National Security Strategy of the United States of America." Washington DC, September 2002.

Gordon England, Deputy Secretary of Defense. "Strategy for Homeland Defense and Civil Support." Washington, DC. June 2005.

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⁷ George W Bush, President of the United States. "Homeland Security Presidential Directive (HSPD) 5: Management of Domestic Incidents" Washington DC, 28 February 2003

⁸ Thomas X Hammes. *The Sling and the Stone: On War in the 21st Century*.

⁹ US Code, Title 10: Goldwater-Nichols Department of Defense Reorganization Act of 1986

¹⁰ CBIRF Chronology

¹¹ Marine Administrative Message (MARADMIN) 589/05 "USMC ROLES AND MISSIONS IN HOMELAND DEFENSE AND DEFENSE SUPPORT OF CIVIL AUTHORITIES" Washington DC, 13 December 2005

¹² Thomas X Hammes. "Responding to Chemical and Biological Incidents at Home." *Joint Forces Quarterly*, 1 Dec 2004. p 82

¹³ Interview with Lieutenant General Dennis M. McCarthy by Captain Sobczak 23 Jan 2006.

¹⁴ http://www.marcorsyscom.usmc.mil/sites/pmcomm/rrs_lmr.asp

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Title 31: § 1535; Economy Act
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